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QUESTIONS AND ANSWERS ON GUN LAWS

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DEFINITION OF FIREARMS

For regulatory purposes, state law designates four types of firearms: handguns (pistols and revolvers), long guns (rifles and shotguns), assault weapons, and machine guns. The degree of regulation depends on the type of firearm and, for sales and transfers, whether the sales or transfers are being conducted by federally licensed gun dealers or by private sellers not required to be licensed.

- A “handgun” is any firearm with a barrel less than 12” long (CGS § [29-7](#)).
- A “rifle” is a weapon designed to be fired from the shoulder using a cartridge to fire a single projectile through a rifled bore for each single pull of the trigger. A “shotgun” is a weapon designed to be fired from the shoulder using a shotgun shell to fire through a smooth bore either a number of ball shots or a single projectile for each single pull of the trigger (CGS § [53a-3 \(16\) & \(17\)](#)).
- An “assault weapon” is (1) any selective-fire firearm capable of fully automatic, semiautomatic, or burst fire at the user’s option; (2) any of a list of named firearms; (3) any unlisted semi-automatic rifle, pistol, or shotgun that has certain specified features; or (4) a part or combination of parts designed or intended to convert a firearm into an assault weapon (CGS § [53-202a](#)).

- A “machine gun” is a weapon that shoots, or can be readily restored to shoot, automatically more than one projectile by a single pull of the trigger without manual reloading (CGS § [53-202](#)).

For a current summary of Connecticut gun laws, see OLR Report [2013-R-0001](#).

GENERAL

1. What did the U.S. Supreme Court hold in [District of Columbia v. Heller](#)?

In [Heller](#), the U.S. Supreme Court answered a long-standing constitutional question about whether the right to “keep and bear arms” is an individual right unconnected to service in the militia or a collective right that applies only to state-regulated militias.

By a five to four margin, the Court held that the Second Amendment protects an individual right to possess firearms for lawful use, such as self-defense, *in the home* (emphasis ours). Accordingly, it struck down as unconstitutional provisions of a District of Columbia law that (1) effectively banned possession of handguns by non-law enforcement officials and (2) required lawfully owned firearms to be kept unloaded, disassembled, or locked when not located at a business place or being used for lawful recreational activities.

According to the Court, the ban on handgun possession in the home amounted to a prohibition on an entire class of arms that Americans overwhelmingly choose for the lawful purpose of self-defense. Similarly, the requirement that any firearm in a home be disassembled or locked made “it impossible for citizens to use arms for the core lawful purpose of self-defense.”

The Second Amendment right is not absolute and a wide range of gun control laws remain “presumptively lawful,” according to the Court. These include laws that:

1. prohibit carrying concealed weapons,
2. prohibit gun possession by felons or the mentally retarded,
3. prohibit carrying firearms in sensitive places such as schools and government buildings,

4. impose “conditions and qualifications on the commercial sale of arms,”
5. prohibit “dangerous and unusual weapons,” and
6. regulate firearm storage to prevent accidents.

Read OLR Report [2008-R-0578](#).

HANDGUNS

1. Who does Connecticut prohibit from possessing or carrying handguns?

The law prohibits illegal aliens and anyone:

1. discharged from custody in the preceding 20 years after a finding of not guilty of a crime by reason of mental disease or defect;
2. confined by the probate court to a mental hospital in the 12 months before applying for a permit to carry handguns or eligibility certificate to acquire them;
3. convicted of a serious juvenile offense;
4. who knows that he or she is the subject of a firearm seizure order issued after notice and a hearing;
5. prohibited by federal law from possessing or shipping firearms because he or she was adjudicated as a “mental defective” or committed to a mental institution (except in cases where the U.S. Treasury Department grants relief from this disability);
6. under a protective or restraining order for using or threatening to use force and in the case of possession, he or she knows about the order and if the order was issued in Connecticut, he or she was notified and given a hearing opportunity; or
7. convicted of a felony or specified misdemeanors (CGS §§ [29-28](#), [29-36f](#) and [53a-217c](#)).

The disqualifying misdemeanors are:

1. criminally negligent homicide (excluding deaths caused by motor vehicles) (CGS § [53a-58](#));
2. first- degree assault (CGS § [53a-61](#));
3. third-degree assault of a blind, elderly or pregnant person, or person with intellectual disability (CGS § [53a-61a](#));
4. second-degree threatening (CGS § [53a-62](#));
5. first-degree reckless endangerment (CGS § [53a-63](#));
6. second-degree unlawful restraint (CGS § [53a-96](#));
7. first-degree riot (CGS § [53a-175](#));
8. second-degree riot (CGS § [53a-176](#));
9. inciting to riot (CGS § [53a-178](#));
10. second-degree stalking (CGS § [53a-181d](#)); and
11. first offense involving possession of (a) controlled or hallucinogenic substances (other than a narcotic substance or marijuana) or (b) more than one-half ounce but less than four ounces of a cannabis-type substance (CGS § [21a-279\(c\)](#)).

Minors are not explicitly prohibited from possessing handguns but an implied prohibition for people under age 21 can be construed from the laws requiring people to be at least age 21 to get a permit to carry handguns or an eligibility certificate to acquire them. Also, the law prohibits transferring handguns to anyone under age 21, except temporarily at a target shooting or firing range, provided the firearm use is otherwise permitted by law and is under the immediate supervision of a person eligible to possess handguns (CGS § [29-34\(b\)](#)).

2. Must one have a permit or other credential to obtain or carry handguns in Connecticut?

One must have an eligibility certificate to acquire handguns; one must have a permit to carry handguns.

3. How many people in Connecticut have a Connecticut gun permit?

According to the State Police, as of December 17, 2012, there were 179,092 valid permits in the state.

4. What are the eligibility criteria for getting a gun permit or eligibility certificate?

An applicant must be eligible to possess handguns (see Q 1). He or she also must (1) pass state and criminal history record checks; (2) pass a DESPP-approved course in handgun use and safety; and (3) in the case of the gun permit, be found suitable to get a permit.

5. What does being deemed “suitable” for a gun permit mean?

The statutes do not define “suitable” for this purpose. Rather, the determination of suitability is left to the permit-issuing official’s discretion. And Connecticut law, as interpreted by the courts, gives broad discretion to officials who determine whether someone is suitable to carry handguns. (Read OLR Report [2008-R-0238](#).)

6. Is gun permit or eligibility certificate information on gun owners available to the public?

The answer is no. Gun owner’s names and addresses are exempt from disclosure under the Freedom of Information Act. The information is disclosable only to (1) law enforcement officials, including U.S. probation officers, performing their duties; (2) handgun transferors verifying the validity of gun permits or eligibility certificates, to the extent necessary; and (3) the mental health and addiction services commissioner for specified purposes (CGS §§ [29-28\(d\)](#), as amended by PA [12-177](#); CGS § [17a-500](#)).

7. Under what circumstances can gun owners lose their eligibility to possess handguns in Connecticut?

Gun owners lose their eligibility to possess handguns after the occurrence of any event that would have made them ineligible to possess handguns in the first place (see Q. 1). Gun owners who lose their eligibility must transfer any handguns they possess to someone eligible or surrender them to DESPP. People transferring their firearms because of a restraining or protective order against them may transfer their firearms for sale only to a licensed gun dealer (CGS § [29-36k](#)).

8. For what reasons can a gun owner's permit to carry handguns be revoked?

For the same reasons that the permit could be denied in the first place, including suitability. If the permit is denied on suitability grounds the gun owner can continue to possess his or her handguns at his or her home or business place because being unsuitable is not one of the grounds prohibiting possession of handguns.

9. Under what circumstances can a person's eligibility to possess or carry handguns be restored in Connecticut?

There is only one circumstance specified in statute under which someone's gun rights can be restored. This is in connection with a mental health disqualification.

Federal law prohibits anyone "adjudicated as a mental defective" or "committed to a mental institution" from shipping, transporting, receiving, or possessing firearms or ammunition, unless their firearm privileges are restored under a federally approved program. State law contains a court procedure for restoring such privileges lost because of a state adjudication or commitment. The procedure is similar to the federal procedure governing federal adjudications or commitments. Anyone seeking to regain firearm privileges must petition the probate court for relief. The court must grant relief if it finds by clear and convincing evidence that (1) the petitioner will not likely act in a manner dangerous to public safety and (2) granting relief is not contrary to the public interest (CGS § [45a-100](#)).

It appears that gun rights could also be restored in any situation in which a person is pardoned for a crime that made him or her ineligible to possess or carry handguns and his or her criminal record is erased. But the statutes do not explicitly address this.

ASSAULT WEAPONS

1. How does Connecticut regulate assault weapons?

With limited exceptions, it is illegal for anyone to (1) possess assault weapons, unless he or she possessed the weapon before October 1, 1993, registered it with DESPP before October 1, 1994, and received a DESPP certificate of possession for it or (2) sell, give, transfer, distribute, or transport assault weapons (CGS § [53-202b](#) and [53-202d](#)).

The law (1) exempts from the assault weapon ban law enforcement officers, correction officials, and military and naval personnel discharging their official duties and (2) allows estate executors and administrators to possess registered estate weapons under probate court orders (CGS § [53-202c](#)). Also, anyone, except a member of the military, who moves into Connecticut with a lawful assault weapon has 90 days to (1) render it permanently inoperable, (2) sell it to a licensed gun dealer, or (3) take it out of state. Military members who move to Connecticut, after October 1, 1994, have 90 days to get a certificate of possession for any legally possessed assault weapon (CGS § [53-202d\(b\)](#)).

Certain assault weapons defined by criteria rather than specific name are exempt from the state transfer restrictions and registration requirements if they were legally manufactured before September 13, 1994 (CGS § [53-202m](#)).

The law also allows possession of certain specified assault weapon models under certain circumstances. A person may possess an Auto-Ordnance Thompson type, Avtomat Kalashnikov AK-47 type, MAC-10, MAC-11 or MAC11 Carbine type assault weapon if (1) it was obtained in good faith on or after October 1, 1993 and before May 8, 2002, (2) the possessor is not prohibited from possessing the weapon under any other law, and (3) the possessor has notified DESPP before October 1, 2003 that he or she possessed the specific weapon (CGS § [53-202n](#)).

One may possess a lawfully registered assault weapon only:

1. at his or her residence, business place, or other property he or she owns;
2. on someone else's property with the owner's express permission;
3. at certain target ranges or shooting clubs;
4. while attending a firearms exhibition, display, or educational project sponsored, conducted, or approved by a law enforcement agency or a national- or state-recognized entity that fosters firearm proficiency or promotes, firearm proficiency or education; or
5. while transporting the weapon between any of the above permitted places or to a licensed firearm dealer for servicing or repair (CGS § [53-202d\(d\)](#)).

One may dispose of lawfully registered assault weapons by transferring them to a licensed gun dealer or, after making arrangements to relinquish them, a police department or DESPP, following guidelines for transporting assault weapons (CGS §§ [53-202d\(b\)](#) and [53-202e](#)).

2. Why is the Bushmaster rifle used in the Newtown shooting not considered an assault weapon under Connecticut law?

The Bushmaster semi-automatic rifle used in the Newtown shooting does not meet Connecticut's definition of assault weapon. It is not listed by name and is not a selective-fire firearm capable of fully automatic, semi-automatic, or burst fire at the user's option. And it does not have the required number of features that would make it qualify as an assault weapon based on its features. In order to qualify based on its features, the rifle used would have to have at least two of the following features:

1. a folding or telescoping stock,
2. a pistol grip that protrudes conspicuously beneath the action of the weapon,
3. a bayonet mount,
4. a flash suppressor or threaded barrel designed to accommodate a flash suppressor, or
5. a grenade launcher.

The Bushmaster rifle in question has only one of these features — a pistol grip.

3. How many assault weapons are registered in Connecticut?

According to the State Police, as of December 17, 2012, there were 8,825 assault weapons registered in Connecticut.

REGULATION OF AMMUNITION AND LARGE SCALE AMMUNITION DEVICES

1. Does Connecticut regulate ammunition?

Except for banning “armor-piercing .50 caliber bullets” or “incendiary .50 caliber bullets,” Connecticut does not regulate ammunition (CGS § [53-202l](#)). (Read OLR Report [2012-R-390](#).)

The Judiciary Committee considered one bill to regulate ammunition in 2011. [SB 1096](#), would have (1) made it illegal for people prohibited from possessing firearms or electronic defense weapons to possess ammunition and (2) allowed police to get a warrant to seize ammunition, not just firearms, from anyone posing an imminent risk of harm. The bill was voted out of committee, amended in the Senate, and died on the House calendar.

2. What are large capacity magazines? Does Connecticut ban or otherwise regulate them?

Definitions vary, but the term is usually used to address large magazines with a capacity of more than 10 rounds of ammunition.

Connecticut does not regulate large capacity magazine. The Judiciary Committee considered one bill to regulate them in 2011. [SB 1094](#) would have prohibited possession of certain devices accepting more than 10 rounds. The bill did not get out of committee.

GUN SHOW LOOPHOLE

1. What is the “gun show loophole?”

People using this term are usually referring to a gap or exemption in federal law that enables people to buy firearms from private, unlicensed sellers without having to undergo a background check.

Federal law regulates gun dealers, requiring them to (1) conduct criminal history record checks on all prospective gun buyers and (2) maintain records of gun transactions. Private sellers are not federally regulated and thus when they sell or transfer firearms do not have to conduct background checks or maintain transaction records. This exemption can allow certain categories of people prohibited from purchasing or possessing firearms (e.g., felons) to obtain them. Although frequently referred to as the gun show loophole, it applies to all private firearm sales regardless of where they occur.

In Connecticut, anyone buying a handgun anywhere, including at a gun show, must undergo a criminal history record check. The requirement for long guns is unclear. People buying long guns from dealers anywhere, including at a gun show, must undergo background checks. But state law does not appear to require people buying long guns at gun shows from private sellers to undergo a background check.

LOCAL REGULATION OF FIREARMS

1. Can towns pass gun laws that are more restrictive than state laws?

State law prevents local jurisdictions from enacting ordinances that irreconcilably conflict with state statutes or address matters in an area in which the legislature has demonstrated the intent to occupy the entire field of regulation. Preemption may be expressly stated in a statute or constitutional provision or implied from the statute's construction and purpose. It is up to the courts to determine if a statute preempts an ordinance.

In determining whether local jurisdictions are preempted from taking action in a particular field, the state Supreme Court has held that courts are not to look for statutory prohibition against a local enactment but for statutory authority for it. Towns might look for authority to regulate firearms under their municipal powers statutes, which give them broad authority to address nuisances and take steps to protect public health and safety.

Connecticut statutes do not expressly preempt local firearm ordinances. But the courts have ruled that the statutes implicitly preempt such ordinances in two areas: firearm sales and hunting regulation. The state Supreme Court struck down a New Haven gun ordinance dealing with firearm sales, in part because the ordinance effectively prohibited what state law permitted. And the Appellate Court struck down an East Hartford ordinance to the extent it operated to regulate hunting, finding that the state has occupied the field.

Connecticut courts have not considered whether the legislature has demonstrated the intent to occupy areas of firearm regulation besides hunting and firearm sales. Given the extent of state firearm regulation in Connecticut, a court may decide that the legislature has manifested the intent to occupy the entire field of firearm regulation. But a court may also decide that, absent a direct conflict with state law, towns, under the municipal powers statutes, may enact firearm ordinances to protect the public health, safety, and welfare of their citizens.

Read OLR Report [2011-R-0137](#).

MISCELLANEOUS

1. Can the police seize guns from people who pose an imminent threat of injuring themselves?

The answer is yes. State law allows the police to seize guns under certain circumstances. It allows a state's attorney or the police, after conducting an independent investigation, to file a sworn complaint with the court, alleging probable cause to believe that a person possessing firearms poses an imminent risk of injury to himself, others, or animals, and that the only reasonable alternative to prevent such harm is to seize the firearms.

In determining grounds and probable cause for issuing the warrant, the judge must consider any recent threat or violent act the person directed toward himself, others, or animals. In determining whether the threats or acts constitute probable cause to believe risk of injury is imminent, the judge may consider, among other things, if the person (1) recklessly used, displayed, or brandished a gun; (2) has a history of using, attempting to use, or threatening to use physical force against people; (3) was ever involuntarily confined to a psychiatric hospital; (4) abused alcohol; or (5) illegally used controlled substances. If satisfied that that probable cause exists and there is no reasonable alternative to prevent the person from causing imminent harm, the judge must issue the warrant (CGS § [29-38c](#)).

Under an unrelated law, a peace officer who determines that a family violence crime has been committed may seize any firearm in plain view at the location possessed by anyone arrested for, or suspected of committing, the crime (CGS § [46b-38b\(a\)](#)).

2. Does the state prohibit people from carrying firearms in certain places?

The answer is yes. With minor exceptions, state law prohibits people from carrying firearms on school property or in any building (1) where either chamber of the General Assembly is located; (2) in which the office of any legislator or legislative officer, employee, or committee is located; or (3) where a legislative committee is holding a public hearing. It also states that the permit to carry handguns does not authorize carrying them where prohibited by law or a property owner.

With regard to the prohibition of firearms on school property, it is illegal for someone to possess firearms on any elementary or secondary school property or at any school-sponsored event knowing that he or she is not licensed or privileged to possess such firearms.

The law does not apply to the otherwise lawful possession by peace officers carrying out their official duties or anyone:

1. using a firearm in a school-approved school program or school-sponsored activity;
2. who has an agreement with the school allowing the firearm; and
3. crossing school property with an unloaded firearm to hunt, provided entry is permitted on the school property by the local or regional board of education (CGS § [53a-217b](#)).

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